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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,528	06/27/2003	Hidehiko Ota	473890-608	9700

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McDermott, Will & Emery
600 13th Street, N.W.
Suite 1200
Washington, DC 20005-3096

EXAMINER

HUBER, PAUL W

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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06/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/607,528

Applicant(s)

OTA, HIDEHIKO

Examiner

Paul Huber

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/787,756.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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A supplemental declaration is required for the amendment filed June 30, 2005.

For any error corrected, which is not covered by an oath or declaration, i.e., any error corrected after the filing of all oaths and declarations currently in the reissue applications, applicant **MUST** submit a supplemental oath or declaration (a "catch-up" oath or declaration) prior to allowance stating *"Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and/or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant."* (37 CFR 1.175(b)(1))), or language equivalent thereto. See MPEP 1444 for handling supplemental oaths and declarations.

The amendments to the claims filed June 30, 2005 are improper.

All subject matter being added to an original patent claim must be underlined. All subject matter being deleted from an original claim must be placed between brackets. 37 CFR 1.173(b)(2) and (d). Subject matter being added to a new claim

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requires rewriting (and underlining) of the entire new claim. Changes must be made relative to the original patent.

Regarding claims 1-7, the changes from the previous amendment filed June 27, 2003 were incorporated, but not using underlining and bracketing. Furthermore, deletion of matter must be made by bracketing, not strikethrough.

Regarding claims 8-14, since the claims are new relative to the patent, they must be underlined in their entirety with the deleted matter simply removed and no strikethrough or bracketing.

The amendment to the specification filed June 30, 2005 is improper.

All subject matter being added to an original specification must be underlined. The amendment to the specification must be underlined in its entirety.

All claims in a reissue application stand or fall with the adequacy of the oath/declaration(s). MPEP 1444. Since the reissue oath/declaration is considered to be deficient for the

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reasons stated above, all the claims 1-14 of the reissue application are rejected under 35 U.S.C. 251.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication should be directed to Paul Huber at telephone number 571-272-7588.

/Paul Huber/
Primary Examiner, Art Unit 2627

pwh
June 5, 2009